

## Message Text

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ACTION COME-00

INFO OCT-01 EUR-12 NEA-10 ISO-00 EB-08 TRSE-00 CIAE-00

INR-07 LAB-04 NSAE-00 SIL-01 L-03 /046 W

-----141715Z 026021 /43

R 141150Z MAR 77

FM AMEMBASSY MANAMA BAHRAIN

TO SECSTATE WASHDC 4365

INFO AMEMBASSY ABU DHABI U

AMEMBASSY ATHENS GREECE

AMCONGEN DHAHRAN SAUDI ARABIA

AMEMBASSY DOHA QATAR

AMEMBASSY JIDDA SAUDI ARABIA

AMEMBASSY KUWAIT KUWAIT

AMEMBASSY MUSCAT OMAN

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ABU DHABI PLEASE PASS DUBAI

ATHENS FOR RTDO

E.O. 11652: N/A

TAGS : BENC, BGEN, BA

SUBJECT : BAHRAIN: CONTRACTING RULES, PRACTICES AND  
BARGAINING TECHNIQUES

REF : STATE A-5955 OF DECEMBER 16, 1976

1. FOLLOWING IS RESULT OF DETAILED CONVERSATION WITH  
BJORN NILSSON, ACTING DIRECTOR OF PROJECTS AND RESEARCH  
DEPT., MINISTRY OF WORKS, POWER AND WATER, GOVERNMENT OF  
BAHRAIN. NILSSON, ALTHOUGH AN EXPATRIATE, HAS  
BEEN IN HIS POSITION FOR TWO AND A HALF YEARS AND  
HAS PLANS FOR EXTENDING HIS CURRENT CONTRACT. THE  
MINISTRY OF WORKS, POWER AND WATER ADMINISTERS ALL  
MAJOR CONSTRUCTION PROJECTS FOR THE GOB, EXCEPT  
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THOSE RELATING TO THE MINISTRY OF HOUSING. A  
CONVERSATION WITH THE UNDERSECRETARY OF HOUSING  
HOWEVER REFLECTS SIMILIAR, FLEXIBLE CRITERIA  
REGARDING CONTRACTS.

2. PRICE: GOB GREATLY PREFERS FIXED PRICE BIDS.  
IT DOES HOWEVER SOMETIMES AGREE TO ESCALATION

CLWUSES TO COVER INFLATIONARY INCREASES IN COSTS WHEN THOSE INCREASES CAN BE "EASILY DETERMINED". FOR EXAMPLE, GOB DISTINGUISHES BETWEEN MATERIAL AND LABOR-INTENSIVE PROJECTS AND WHILE FAVORING FIXED PRICE PROCEDURES ON FORMER IS AGREEABLE TO DISCUSSION OF ESCALATION CLAUSES ON LATTER. GENERALLY SPEAKING, GOB INSISTS ON ONE YEAR FIXED PRICE AGREEMENT ON MATERIALS AND EXPECTS CONTRACTORS TO BE IN POSITION TO ORDER AND IMPORT ALL OR MOST ALL OF ITS REQUIREMENTS WITHIN ONE YEAR PERIOD. TO DATE, GOB WILL NOT ACCEPT COST PLUS FEE CONTRACTS ALTHOUGH TECHNOCRATS WITHIN MINISTRY ARE WORKING TO INSTITUTE THE SYSTEM. GOVT. WILL NOT GUARANTEE PRICES OF ANY COMMODITY FOR THE DURATION OF A CONTRACT. GOVT. DOES MAKE PROVISION IN COTRACT FOR ESCALATION OF DEMURRAGE CHARGES. IN FUTURE, IT ALSO HAS PLANS TO MAKE PROVISION FOR DECLINE IN DEMURRAGE CHARGES (BENIFITS OF WHICH DECLINES CURRENTLY GO TO CONTRACTOR); PRACTICES IN THE BAHRAINI PRIVATE SECTOR ARE THEORETICALLY SIMILAR TO THE ABOVE BUT IN FACT ARE SUBJECT TO PRIVATE NEGOTIATION AND UNDERSTANDING WHICH VARY FROM PROJECT TO PROJECT.

3. BID AND PERFORMANCE BONDS: BID BONDS ARE REQUIRED FROM ALL INTERNATIONAL CONTRACTORS. THESE ARE UNIFORM FOR ALL GOVT. AGENCIES (EXCEPT HOUSING). THEY ARE FLAT RATES STATED IN BAHRAINI DINARS AND ARE NOT PERCENTAGES OF TOTAL BID (SINCE INFORMATION OF DEPOSITS OF BID BONDS LEAKED FROM BANKS WOULD PROVIDE FOOLPROOF UNCLASSIFIED

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METHOD FOR COMPETITORS TO KNOW EACH OTHERS BID TOTALS). THERE IS NO POSSIBILITY OF NEGOTIATING BID BOND DOWNWARD. PERFORMANCE BONDS, ARE "ALMOST ALWAYS" TEN PERCENT OF TOTAL CONTRACT. REQUIREMENTS FOR BONDS AND GUARANTEES DO NOT VARY ACCORDING TO THE EXPERIENCE OF THE FIRM IN BAHRAIN NOR WHEN THE CONTRACTOR IS IN A LOCAL JOINT VENTURE. MINISTRY OFFICIALS ARE PREPARED TO DISCUSS THE POSSIBILITY OF OFFSETTING PERFORMANCE BOND TOTAL WITH IMPORTED MACHINERY AND EQUIPMENT. UP TO DATE, UNCONDITIONAL BANK GUARANTEES HAVE BEEN REQUIRED BUT GOB IS OPEN-MINDED IN REGARD TO SURETY BOND ACCEPTABILITY AND IS AWARE OF IMPORTANCE THIS HAS FOR AMERICAN FIRMS IN CONTRAST TO EUROPEAN FIRMS. NEITHER MACHINERY OFFSET NOR SURETY BOND QUESTION HAS EVER SERIOUSLY ARISEN TO DATE IN BAHRAIN, WHERE NOT ONE MAJOR CONSTRUCTION PROJECT HAS BEEN WON BY AN AMERICAN FIRM.

4. FORCE MAJEURE: FORCE MAJEURE IS DEFINED IN USUAL

TENDER CONDITIONS. ACCORDING TO GOB, IT CLOSELY  
FOLLOWS IAI REQUIREMENTS ON STANDARD FORCE  
MAJEURE LANGUAGE AND DEFINITIONS. LABOR DISPUTES  
ARE "NOT ALLOWED" IN BAHRAIN. IF THEY WERE TO OCCUR,  
GOB WOULD BE "REASONABLE" IN JUDGING THIER EFFECT ON  
PROJECTS. DELIVERY DELAYS DUE TO PORT CONGESTION ARE  
CONSIDERED FORCE MAJEURE CONDITIONS AND THERE IS  
SCOPE FOR NEGOTIATING THE LANGUAGE OF FORCE MAJEURE  
CLAUSES, ALTHOUGH NOT FAR BEYOND IAI GUIDELINES.

5. TRAINING: GOB POLICY IS TO INSIST ON SUPPLIER'S  
PROVIDING TRAINING BOTH IN SUPPLIER'S PLANT AND

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ACTION COME-00

INFO OCT-01 EUR-12 NEA-10 ISO-00 EB-08 TRSE-00 CIAE-00  
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ON-THE-JOB-TRAINING. IN THE FORMER CASE, GOB PAYS  
INTERNATIONAL TRANSPORTATION AND SUBSISTENCE  
ALLOWANCES TO TRAINEES WHILE SUPPLIER IS EXPECTED  
TO ABSORB COSTS ATTENDANT TO ACTUAL TRAINING. OJT  
IS SUBJECT TO NEGOTIATION. TRAINING EQUIPMENT MAY  
BE IMPORTED AND RE-EXPORTED ON A DUTY-FREE BASIS.

6. FOREIGN AND DOMESTIC WORKERS: GOB POLICY IS TO  
STRONGLY FAVOR "MACHINERY-INTENSIVE" PROJECTS RATHER  
THAN LABOR-INTENSIVE ONES IN VIEW OF THE LACK OF  
UNEMPLOYED BAHRAINIS. IF LARGE LABOR FORCE IS  
DEFINITELY REQUIRED FOR THE PROJECT, THEN GOB

STRONGLY FAVORS ARRANGEMENTS SIMILAR TO CURRENT SOUTH KOREAN PROJECTS IN BAHRAIN, I.E., CONTRACTOR IMPORTS ENTIRE LABOR FORCE, HOUSES AND FEEDS IT NEAR PROJECT, MAINTAINS STRICT SOCIAL DISCIPLINE AND, IN GENERAL, IMPINGES ONLY marginally ON THE "SOCIAL INFRASTRUTURE", WHICH IS ALREADY UNDER GREAT STRAIN. FIRMS ARE NOT ALLOWED ANY LONGER TO BEGIN UNCLASSIFIED

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PROJECTS AND THEN IMPORT MANPOWER PIECEMEAL AND ALLOW LABORERS TO LIVE IN THE BAHRAINI COMMUNITY. MAJOR SOURCES OF FOREIGN LABOR INCLUDE: PAKISTANIS, INDIANS, KOREANS, PILIPINOS, THAIS. A FEW COME FROM SINGAPORE, TAIWAN, AND HONG KONG. WAGES VARY ENORMOUSLY BETWEEN NATIONALITIES. FOR EXAMPLE, AN AVERAGE BAHRAINI WELDER GETS AROUND BD 7 (US\$ 17.50) DAILY WHILE AN INDIAN DOING THE SAME JOB GETS AROUND BD 3 (US\$ 7.50). FOREIGN WORKERS ARE NOT LIABLE FOR INCOME TAX (THERE BEING NONE IN BAHRAIN); WORK AND RESIDENCE VISAS ARE ROUTINELY ISSUED TO THE COMPANIES. FOREIGN MANPOWER CONTRACTED WITH INDIVIDUALLY IS SUBJECT TO GOB SOCIAL INSURANCE AND LABOR LAW PROVISIONS WHEREAS LABOR BROUGHT AS GROUP IS NOT. (THIS IS AN IMPORTANT AND POTENTIALLY COSTLY QUESTION WHICH MUST BE DISCUSSED IN DETAIL BY COMPANIES WITH GOB).

7. ARBITRATION: ALL CONTRACTS STIPULATE THAT BAHRAINI LAW SHOULD BE USED FOR SETTLEMENT OF DISPUTES. IF COMPANIES INSIST, GOB WILL AGREE TO RECOURSE TO THE INTERNATIONAL CHAMBER OF COMMERCE IN BRUSSELS. THERE HAVE TO DATE BEEN NO CASES OF FORMAL ARBITRATION, EITHER LOCAL OR INTERNATIONAL, IN BAHRAIN. IN THE ONE MAJOR CASE OF DEFAULT ON THE PART OF AN INTERNATIONAL CONSTRUCTION FIRM, THE GOB TOOK THE FIRM TO COURT LOCALLY "IN DEFAULT OF CONTRACT" AND PRELIMINARY INSPECTION OF FIRM'S BOOKS LED TO A RAPID RENEGOTIATION OF CONTRACT, I.E., THE FIRM'S CONTENTIONS WERE EVENTUALLY AGREED WITH BY GOB.

8. LOCAL AGENTS: THEY ARE REQUIRED IN ALMOST ALL CASES (EXCEPT THOSE DEALING WITH "NATIONAL SECURITY"). TECHNOCRATS ARE ATTEMPTING TO LIMIT THEIR ROLE, BUT AS OF THE PRESENT, THEY ARE BOTH USEFUL AND NECESSARY. COMMISSIONS AND FEES ARE SUBJECT TO PRIVATE NEGOTIATION AND VARY SIGNIFICANTLY DEPENDING ON THE AGENT AND PROJECT. UNCLASSIFIED

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9. LOCAL PARTNERSHIPS, CORPORATIONS: WHOLELY FOREIGN-OWNED LOCAL CORPORATIONS ARE NO LONGER ALLOWED UNDER BAHRAIN LAW WHICH AS OF 1976 REQUIRED MAJORITY BAHRAINI OWNERSHIP. SEVERAL MAJOR (FOR BAHRAIN) LOCAL PARTNERSHIPS HAVE BEEN FORMED FOR SPECIFIC PROJECTS, E.G., HOWARD (UK)/ALI KARIME FOR THE INTERNATIONAL AIRPORT AND VARIOUS CAUSEWAY PROJECTS, TARMAC/NASS FOR PREFAB HOUSING.

10. GRADUATED OR ADVANCE PAYMENTS: THE AMOUNT OF ADVANCE PAYMENTS ARE SUBJECT TO NEGOTIATION BUT SUCH PAYMENTS ABSOLUTELY REQUIRE BANK GUARANTEES.

11. LOCAL SUPPLY: NOT RELEVANT TO BAHRAIN SITUATION WHERE THERE ARE NO LOCAL SUPPLIERS TO SPEAK OF.

12. BONDED AREAS: NO BONDED AREAS ARE AVAILABLE TO ELIMINATE DELAYS WITH PORT AND CUSTOMS CLEARANCES.

13. LANGUAGE AND UNITS OF MEASUREMENT: ENGLISH AND METRIC ONLY.

14. CORPORATE TAXES: THERE ARE NO CORPORATE TAXES IN BAHRAIN. THERE ARE SOME NEWLY INTRODUCED "FEES" FOR OPERATION IN BAHRAIN AND THESE MAY BE INCLUDED IN THE TENDER. MOST CONTRACTS CONTAIN CLAUSES TO THE EFFECT THAT IF GOB INTRODUCES TAXES THE CONTRACTS WILL BE RENEGOTIATED ACCORDINGLY.

15. MACHINERY AND EQUIPMENT: IT IS POSSIBLE TO NEGOTIATE A WAIVER OF CUSTOMS DUTIES ON MACHINERY, BUT SUCH MACHINERY MUST BE RE-EXPORTED AT THE CONCLUSION OF THE PROJECT. IF MACHINERY IS SOLD ON THE LOCAL MARKET, THE ORIGINAL CUSTOMS ASSESSMENT MUST BE PAID.

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16. NEGOTIABLE CONTRACT CLAUSES: BID AND PERFORMANCE BOND REQUIREMENTS, LICENSING FORMALITIES, VISA REQUIREMENTS AS WELL AS SOME STATEMENTS RELATING TO THE BOYCOTT OF ISRAEL ARE NON-NEGOTIABLE REQUIREMENTS. ALMOST EVERYTHING ELSE IS NEGOTIABLE.  
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## Message Attributes

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